

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**TIMOTHY W. FORD,**

**Plaintiff,**

**V.**

**DOUGLAS COUNTY DEPARTMENT  
OF CORRECTIONS, et. al.,**

## Defendants.

**CASE NO. 8:05CV528**

# MEMORANDUM AND ORDER

Three motions are pending in this case:

- The plaintiff's motion to compel, Filing No. 56;
- The defendants' motion for summary judgment, Filing No. 59; and
- The defendants' motion for a thirty-day extension to file a reply brief on their motion for summary judgment, Filing No. 68.

The plaintiff's motion to compel, filed on June 14, 2007, states he served a request for production of documents on the defendants on April 5, 2007, but the defendants refused to respond. Filing No. 56. The document production requests at issue were filed by the plaintiff on April 10, 2007. See Filing No. 55. The plaintiff requested production of all documents related to the use of force against him on October 25, 2005, including the copies of any video or tape recordings of the event, and any misconduct reports or grievances related to the event. The plaintiff also requested copies of the Douglas County Corrections Center's policies, rules, regulations, and procedures regulating the use of force and forced cell moves against pretrial detainees, and copies of all grievance procedures, rules, and regulations provided to the plaintiff upon entering the Douglas County Corrections Center (DCCC). The defendants did not respond to the plaintiff's motion to compel.

On June 19, 2007, the defendants filed a motion for summary judgment. Filing No. 59. The defendants claim the plaintiff cannot produce any evidence that the defendants used excessive force, that the plaintiff sustained anything more than de minimis injuries, that the policies or customs of Douglas County caused plaintiff's alleged injuries, or that the plaintiff exhausted his available administrative remedies before Filing No. this lawsuit. In support of this motion, the defendants offered exhibits responsive to the discovery requests served by the plaintiff on April 5, 2007.

The plaintiff promptly responded to the defendants' motion for summary judgment. In that response, he explained that although the defendants argue that the plaintiff lacks

evidence to support his claim, the defendants control and possess all such evidence and failed to produce it in response to the plaintiff's discovery requests. The plaintiff therefore argues that the defendants' motion for summary judgment should be denied.

The defendants served discovery responses on the plaintiff on July 9, 2007. Filing No. 67. That same day, the defendants also requested an additional thirty days to file their reply brief. See Filing No. 68.

Based on these court filings, it appears the defendants have now complied with the plaintiff's discovery requests. If this is incorrect, the plaintiff must promptly advise the court, with specificity, concerning any discovery requests which remain unanswered. Assuming the plaintiff now possesses the information he requested through discovery, he is presently able to use this information to respond to the defendants' motion for summary judgment.

Accordingly,

IT IS ORDERED:

1. The plaintiff is given until July 30, 2007, to notify the court that the defendants' discovery responses for the production requests served on April 5, 2007, are inadequate or incomplete. Any such notice must be filed of record and specifically identify which discovery requests remain pending and the basis for plaintiff's claim that the defendants have failed fully to respond. Absent timely notice from the plaintiff that the defendants' discovery responses are incomplete, the plaintiff's motion to compel, Filing No. 56, will be denied.

2. The plaintiff is given until August 7, 2007, to file an additional response to the defendants' motion for summary judgment.

3. The defendants are given until August 15, 2007, to file any reply to the plaintiff's response.

4. The defendants' motion for a thirty-day extension to file a reply brief, Filing No. 68, is denied.

Dated this 19<sup>th</sup> day of July, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge